SUPREME COURT OF THE STATE OF NEW YORK
QUEENS COUNTY

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PEOPLE OF THE STATE OF NEW YORK

- against

ATTORNEY'S AFFIDAVIT

TYRONE JOHNSON,
Defendant.

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Allan Laurence Brenner, being duly sworn, deposes and says the following:

1. I am an attorney admitted to practice before the courts of the State of New York, and am the attorney for the accused herein, Tyrone Johnson.

2. I submit this affidavit in support of the within motion to vacate the jury verdict, pursuant to C.P.L. § 330.30(1) and (3), and for dismissal of the indictment or, in the alternative for the ordering of a new trial, and for such other and further relief as this court may deem necessary and proper in the premises.

3. Lest there be any confusion or cynical claims of legal posturing or gamesmanship, I have always believed and continue to believe in Mr. Johnson's innocence of the crimes charged in this indictment. I also believe that the prosecutor knowingly and intentionally withheld material and exculpatory information from the defense, and made material misrepresentations, all in a contemptuous effort to secure a conviction. In so doing, the prosecution made the court an unknowing accomplice to a legal travesty, a trial which could not, in any meaningful manner, be called fair.

I. PROCEDURAL HISTORY

4. The accused, Tyrone Johnson was arrested on February 24, 2000 and charged with the shooting of Leroy Vann on February 5, 2000. He was then indicted and arraigned in TAP C, before Hon. Robert Hanophy. In the nascent stages of the prosecution, he was represented by Scott Brettschneider, who submitted an omnibus motion on his behalf in or about May 2000. In the discovery section of the motion (memorialized within the court file), Brettschneider specifically demanded the following

> a) Whether any person(s) has been shown a photograph(s) of the defendant or other suspect(s), and has failed to identify the person(s) depicted in such photographs as the perpetrator(s) of the offense(s) charged. . .

and

> j) Whether any immunity, favorable treatment or benefit of any kind has been promised or granted to any person(s) who testified before the Grand Jury or who the prosecutor intends to call as a witness at trial the name(s) and address(es) of such person(s); and, the nature of the promise or grant.

In its response to that demand (also within the court file), the prosecution detailed that " The People are not now in possession of, or aware of, any Brady material."

5. The case remained on the "TAP C" calendar of Hon. Robert Hanophy from the arraignment in 2000 until May, 2002. During that entire period, there was no disclosure of the existence of any ostensible "eyewitness" to the shooting of Leroy Vann. Neither was it ever disclosed that there was an eyewitness, who was marginally an accomplice, and the recipient of a cooperation agreement with the prosecution. Indeed both Mr. Brettschneider and I were induced to believe that the prosecution's entire case revolved around the dying pronouncements of Leroy

Vann, and a third-party admission allegedly made by Tyrone to one Daniel Small.[1]

6. On May 3, 2002, the prosecution announced that they were ready to begin the trial of this matter. Even then, Claude Stuart, the assistant assigned to try the matter, made no reference to the existence of an eyewitness, instead confirming repeatedly that the entire case revolved around the "dying declarations" of Leroy Vann. The case was then sent by Judge Hanophy to this court, where during the initial conference, Stuart disclosed that it would be necessary to conduct a hearing on the admissibility of Mr. Vann's hearsay statements, since they were the only evidence in the case linking the accused to the murder. He made no reference, veiled or otherwise, to Henry Hanley's existence, or to eyewitness testimony as part of the prosecution case. In similar fashion, despite a profusion of police reports and grand jury testimony, no document was provided that hinted at the true nature of the People's trial case.[2]

7. It was, however, during the initial tender of **Rosario** material during the morning of May 7 that the prosecutor furnished a DD-5 which reflected a series of police interviews with 'Sharise"[3] Knight.(annexed hereto as ***Exhibit 1***). This report detailed, among other things, that Ms. Knight had seen Leroy Vann exit his vehicle after parking it in front of his house. She saw

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[1] Daniel Small had been arrested for some offense, and while in police custody, announced that Tyrone Johnson had confessed the crime to him. Mr. Small subsequently died under circumstances unrelated to this case.

[2] It is certainly interesting that through the vast compendium of reports and notes, some of which reflect "street intelligence" about the shooting, and about who might be responsible, there was not one whisper, no reference, casual or marked, to the existence of Henry Hanley, either as a possible witness or as a participant.

[3] The report listed her as "Sharise" Knight, which is of course incorrect. The defense continued under that mistaken impression until corrected by Henry Hanley during cross-examination. (See trial transcript p. 47, annexed hereto as ***Exhibit 2***).

that he was approached by a male, approximately 35 years old, 6'0" tall, wearing dark clothing, who she could see clearly in the bright headlights of a large automobile parked on the northbound side of 112th Avenue. The report then recounted that

> [o]n 2/6/00 0305 hrs The wit [sic] left the wit's livingroom and went to the rear of the wit's residence into the bedroom to watch TV. On 2/6/00 0316 hrs the wit heard 1 gunshot the wit believed cam from the V/O 113th Ave. The wit lowered the TV an heard 2 more gunshots

After reportedly being provided this information by Knight, the detectives left and returned 1 ½ hours later with a six-photograph array containing a picture of Tyrone Johnson. Upon viewing the array, Knight indicated that the man she had seen "was not among the photos in the array."

8. At the time of this exchange on May 7, Mr. Stuart had still not disclosed Henry Hanley's existence, or the substance of his expected testimony, either by proffer or provision of material. Immediately upon receipt of this document, the defense asserted that the substance of Ms. Knight's statement was **Brady** material, and averred that its disclosure during jury selection, more than two years after the statement was given, was untimely and prejudicial. The court initially agreed,[4] and inquired of Mr. Stewart to assess whether this was in fact the initial disclosure of the information. Mr. Stuart noted that the original discovery tender had been made by Assistant District Attorney Robin Leopold, and that he would speak to her about whether this document had been furnished prior to May 7.

9. When the parties returned for the afternoon session, Mr. Stewart remarked that Ms.

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[4] We have requested an immediate transcription of the proceedings of May 7, May 8 and May 13. Unfortunately the court reporter, Ms. Banks, is on vacation until September 3. Upon its receipt, it will be inserted into this pleading as ***Exhibit 3***. Until that point, all references to statements made by the court or counsel on those dates are set forth upon information and belief, subject to correction.

Leopold had no specific recollection of this particular document and could not (or would not) commit to whether it had been furnished to the defense prior to May 7. In similar fashion, the defense contacted Scott Brettschneider, Mr. Johnson's initial attorney. Brettschneider related that he was prepared to testify under oath that he had never been provided with any such report, either by Ms. Leopold, Mr. Stuart or any other representative of the Queens District Attorney's office. I also placed on the record that Brettschneider's demand for discovery had specifically requested evidence of any non-identification by a witness to whom was displayed a photograph of the accused, and that the prosecution had responded that it was unaware of the existence of any such material. During the colloquy that ensued, Stewart made references to efforts being made to locate Ms. Knight, and that the People had no information about her present location.

10. On May 8, at the request of the defense, the court dismissed the panel from which jury selection had commenced, and adjourned the case to Monday, May 13. The court requested a crystallization of the issues and a specific articulation of the relief the defense was seeking as a result of the late disclosure of "Sharise" Knight's statement.

11. On the night of May 8, I contacted Kevin W. Hinkson, an experienced and reliable private investigator, with whom I had worked on numerous occasions. I faxed to him a copy of the DD-5 reflecting "Sharise" Knight's statement. I requested that he quickly begin the process of attempting to locate her so that the defense could subpoena her as a witness. The efforts that he undertook to locate Ms. Knight, between May 8 through the end of the trial are memorialized in his affidavit (annexed hereto as ***Exhibit 4***).

12. On May 9, the defense submitted to this court a letter detailing its legal position on the ramifications of the nondisclosure of this report. In this letter, (annexed hereto as ***Exhibit 5***),

we requested the declaration of a mistrial and a two week adjournment in which to attempt to locate Shanese Knight. Of equal significance, we reaffirmed our mistaken belief that

> [a]s best can be gleaned from the discovery exchanged to date, and the representations of the prosecutor, this is a case grounded entirely upon circumstantial evidence. Based on the police reports exchanged to this point, there are no witnesses who will claim they saw Mr. Johnson shoot Leroy Vann, or that he was in the vicinity of Mr. Vann's house at any time proximate to the shooting.

Even at that juncture, we were operating under the fallacious premise that this was an entirely circumstantial case, and that Ms. Knight was the only colorable "eyewitness" to the circumstances surrounding the shooting.[5] Even at that point, Stewart did not disclose (at least publicly or to the defense) that he indeed had at his disposal a cooperating "eyewitness," and that this witness was a relative of "Sharise" Knight. Instead he allowed the defense (and quite possibly the court) to operate under the most serious of mistaken assumptions.

13. On May 13, without any written response by the prosecution, this court ruled that the information attributed to Shanise Knight was not **Brady** material, since according to the report, she was not an actual witness to the firing of the fatal shots. Despite a renewed request from the defense, the court did not require the prosecution to furnish any additional information regarding Ms. Knight, and it denied the defense request for any adjournment in which to try and locate her. The court also stated that it would revisit the issue at the request of the defense at some later point if the situation so warranted. The court then directed that jury selection would begin

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[5] It is unclear when this court became aware of Henry Hanley's existence. It is certain that at some point after the case was received by the court, it entertained an ***ex parte*** application by Stuart for a protective order as to Mr. Hanley's identity. We are now requesting that the record of those proceedings be unsealed so that the date and the substance of the People's representations will be a matter of the record, for purposes both of the instant litigation and for any ultimate appeal.

anew.

14. During the voir dire of both the first venire and the new panel, Mr. Stewart questioned jurors about their ability to credit witnesses who "step up to the plate" only if they are receiving some benefit in return. He also made inquiries as to whether jurors could separate the message from the messenger, even if "it was someone who they might not invite home for dinner." These appeared to be murky and inartful references to cooperating witnesses; and since there had never been any disclosure of such witnesses or agreements, the defense quickly demanded to be furnished with the name and nature of any cooperating witness with whom an agreement existed. We again emphasized that such information had been specifically demanded two years earlier, and had not been provided.

15. On May 13, the court acknowledged that there had been an ***ex parte*** proceeding during which a protective order had been granted the prosecution regarding the identity of the cooperating witness. Parenthetically, it is certainly noteworthy that the historical record of this matter is bereft of any assertions of witness tampering, intimidation or threats by Tyrone Johnson or any person purported to have been acting on his behalf. Nevertheless, for some still unknown reason, the court felt constrained to accord the prosecution the benefit of the continued anonymity of its only direct witness to these events. Despite the closed nature of the proceedings, I would not be surprised if the unsealed record revealed that Stewart failed to notify the court of the familial relationship between its main witness Hanley and Sharise Knight, the witness who was the fulcrum of the defense's **Brady** claim. The court did direct that a redacted copy of any cooperation agreement be furnished to the defense; thereafter, Stewart provided a redacted proffer agreement and cooperation agreement.

16. Jury selection then continued on May 13, 14 and 15. On May 15, Stewart informed the court and counsel that due to death in his family, he would have travel to Belize for the wake and funeral. It was agreed that the matter would be adjoined from May 16 to May 23.

17. It was upon disclosure of these "redacted" documents that the defense had its first revelation as to the identity of the mystery witness. In one section of the proffer agreement, the prosecution had inadvertently left unredacted a portion displaying the name "Henry Hanley." Accordingly on May 14, we sent Stuart a letter specifically demanding grand jury testimony, statements and other **Rosario** material pertaining to Henry Hanley. (See letter of May 14, annexed hereto as ***Exhibit 6***). We also informed the court of this unintentional disclosure on the record, and asserted that there was no longer a need for any protective order since the proverbial "cat" was out of its bag. In addition, given that jury selection was concluded on May 16, the prosecution's constitutional and statutory **Rosario** obligation had become concrete. Accordingly, we wrote to the court on May 16 (see letter attached as ***Exhibit 7***).

> At this juncture (5:30 AM on Thursday), the incomplete nature of the **Rosario-Giglio-Brady** tender makes preparation for opening statements today problematic. Given the prosecution's failure to furnish even the slightest shred of material pertaining to Mr. Hanley (presumably the subject of the People's "message/messenger" didactic during voir dire), the defense is presently unaware of whether the People have in hand an alleged eyewitness to this crime, or the details he is alleged to have observed. While I fully understand that the People's statutory obligation does not formally attach until the full jury panel is sworn, the court has ample discretion to ensure that fairness inheres to the disclosure process.

Nevertheless, the court conducted another ***ex parte*** proceeding, from which both myself and Mr. Johnson were expressly excluded, and continued the protective order as to **Rosario** material until May 22, the day before the trial was scheduled to begin.

18. On May 22, the prosecution provided a package of statements attributed to Henry Hanley: three handwritten statements, grand jury testimony, and the videotape of an interview by an assistant district attorney. There were no police reports or handwritten notes of any detective provided. These materials formally revealed for the first time that Hanley claimed to be an eyewitness to the shooting of Leroy Vann by Tyrone Johnson and another individual, Shawn Williams, who exited a white Navigator and approached Leroy Vann ***together***, confronted him ***together***, and shot him ***together***. Moreover, he claimed to have been paid by Tyrone Johnson and another individual to notify them when Vann was in the vicinity of his home on the night and morning of February 4 and February 5. From the papers provided, two other details became abundantly clear: 1) Hanley did not "come forward" until he was arrested himself for a violation of probation almost six weeks after the shooting; and 2) he was professing that Sharise Knight was his aunt.

19. Accordingly, on May 28, the day before Henry Hanley was scheduled to appear as a witness, the defense wrote to Stuart (see letter annexed hereto as ***Exhibit 8***):

> I am also renewing my request that you disclose all information presently in your possession regarding the location of Sharise Knight. It is now clear that Sharise Knight is the aunt of Henry Hanley, a witness clearly under your control. Moreover, given the details provided by Mr. Hanley, Ms. Knight's statement is at a direct variance with his purported "eyewitness" testimony. While he professes to have seen Leroy Vann directly approached by ***two*** men, one of whom was Tyrone Johnson, she detailed the approach by ***one*** man, who was not Tyrone Johnson. Since, according to Hanley, no one else approached Leroy Vann from the time of Vann's arrival until the time of the shooting, the exculpatory nature of Ms. Knight's account is now unmistakable.

This correspondence was copied to the court file and delivered to the court. Neither Claude Stewart nor the court commented on this request nor responded in any fashion.

20. On June 4, 2002, the day of closing arguments, the prosecution called Kamisha Grant as a rebuttal witness. She was called to rebut the testimony of defense witness Stanley Gaskins, who claimed to have been inside of 153-18 112 Avenue at the time of the shooting with his girlfriend Kamisha, and who testified that Henry Hanley had been inside as well, playing video games in the back bedroom. Grant testified that Chenise Knight is her aunt, and that Henry Hanley is her brother. (Trial transcript, June 4, pp. 6,10 annexed hereto as ***Exhibit 9***). She also testified that as of the date of the shooting, she was not the girlfriend of Stanley Gaskins, and was not present at Knight's home on the morning of February 5. On cross-examination, Grant was asked directly "where is Chenise Knight"; the objection to this question was sustained.[6] She did state that she had spoken to Knight as recently as two to three weeks, and implied that she knew precisely where Knight was situated.

21. Immediately after Grant's testimony, I renewed the defense's **Brady** application, asserting that "[i]t is clear to me now - - and I'm taking a significant leap - - that Miss [sic] Night's whereabouts, such as they are, have always been known to the People," (See Exhibit 8, p.22-23), and that Kamisha Grant had been located through Shanise Knight. The following colloquy then ensued:

THE COURT: Do you have knowledge - - you indicated earlier,

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[6] No fewer than three individuals (Hanley, Gaskins, and Grant) placed Knight in that apartment during the shooting. The court itself had seen a report reflecting that Knight had witnessed Leroy Vann immediately before he was shot, approached by and in encounter with a man who was not Tyrone Johnson. The court also knew that the defense was desperately seeking to find Shanise Knight, and that a private investigator was out looking for her. The prosecutor had professed to be as interested in finding her as the defense. It was therefore incomprehensible that Stuart would object to that straightforward question, and stranger still that the court saw fit to sustain it.

during the course of the trial, that you did not have knowledge of Miss Chenise Knight's whereabouts?

MR. STUART: That's correct, Judge. That's correct.

THE COURT: And is that still your position?

MR. STUART: Yes, judge.

THE COURT: I believe your application, Mr. Brenner, is for the District Attorney to provide you with information as to the whereabouts of Miss Chenise Knight.

MR. BRENNER: Yes, your Honor, and for the record - - we have a witness who the prosecution called who says that she spoke to Chenise Knight two weeks ago.

Now, there is a concept in the law known as "conscious avoidance,"and the notion that the defense has not been at all interested in the whereabouts of Chenise Knight is a specious one.

We made our position clear right on.

I move [sic] for a mistrial, I move [sic] for continuance, moved [sic] for time to find her, and in off-the-record conversations with Mr. Stuart, I had the sense that the People wanted to find her as well.

We have somebody who knows where she is, and the notion that this person [Knight], who was interviewed by the detectives and was shown photos of my client and claimed in a DD5 to be at least an eyewitness to what preceded the shooting – that the People didn't ask this young woman where she is or how she could be reached, it is, in my estimation, without any assertion of wilfulness, the conscious avoidance of an obligation, which I believe is incumbent upon the prosecution. So, yes, I want to know where she is.

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THE COURT: – all right, what is your application in light of the fact that the People have denied knowledge of the whereabouts of Miss Chenise Knight.

MR. BRENNER: I asked on the record where this witness was, and the objection was sustained.

If nothing further, I would like that question answered, and, of course, this would entail a continuance, and it's not something that I ask for lightly, given the protracted length of this trial . . .

(Exhibit 9, pp. 26-28)

The court then inquired of Stuart as to the People's position, and in a moment of unrivaled audacity, Stuart responded:

> MR. STUART: Judge, the People's position is exactly that the - - that this was not Brady material, and counsel certainly had the option of pursuing, locating this individual, chose not to, and instead, chose to present Mr. Gaskins instead of this s witness, and that's the People's position.
>
> ***It is not my obligation now to try to locate any witness on behalf of the defense at his juncture.***
>
> ***He knew at the get-go exactly what the situation was when the document was turned over, and chose not to do anything else in relationship to locate this witness.***

(Exhibit 9, pp. 28-29, emphasis added)

The court took a half-hour recess, after which it denied the defense application, again affirming that Shanise Knight was not a **"Brady"** witness, since the report of her interview did not reflect that she saw the actual shooting. The case then proceeded to summations, jury instruction and ultimately guilty verdict.

II. THE PROSECUTION'S EVIDENCE AT TRIAL

22. The evidence presented during the prosecution's direct case was discrete and uncomplicated. It consisted of Henry Hanley's testimony regarding his participation in the events leading up to the morning of February 5, as well as his observations of the shooting itself. (Hanley's complete testimony is annexed hereto as Exhibit 2).[7]

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[7] During the cross-examination of Hanley, he was repeatedly confronted with his prior written and videotaped statements, which appeared to be at significant odds with his trial testimony. In addition, it bears noting that Hanley had been convicted of two armed robberies, one before this shooting and one since, and that he had been arrested on a violation of probation when he began conversing with detectives about the events of February 4 and 5. Moreover, the court instructed the jury that Hanley was an accomplice as a matter of law regarding the attempted robbery counts, and that it could consider whether he was an accomplice as to the

23. There was no other direct evidence linking Tyrone Johnson to the commission of this murder. Instead, three witnesses: Mary Puryear, Brenda Cofield and police officer John Blandino were called to attest to statements they attributed to Leroy Vann. Their testimony was uniformly similar: each claimed to have heard Vann say [in sum and substance] that "Tyrone shot him," "Tyrone from the projects," "Tyrone who drives the white Navigator."

24. In addition, the prosecution presented some evidence that a white Navigator, registered to Dorothea Johnson, was in the custody of the police, and had been thoroughly searched by the New York Police Department Crime Scene Unit. Johnson's home had also been searched pursuant to a search warrant, and clothing seized and tested. Nevertheless, there was absolutely no forensic evidence linking Johnson to the shooting.

25. In short, I believe that it is a fair statement that in the absence of Henry Hanley's testimony, the prosecution would have had a serious problem serving a motion for a trial order of dismissal. It is equally fair to conclude that the jury credited Hanley's account of his observations of the shooting, that they believed he was where he claimed to have been, and seen the conduct he attributed to Tyrone Johnson.

III. NEWLY DISCOVERED EVIDENCE

26. Immediately after the verdict, Tyrone Johnson's family hired private investigator Michael Race to find Shanise Knight. As can be gleaned from his affidavit (annexed hereto as ***Exhibit 10***), Mr. Race has extensive experience in post-verdict investigations where there are significant claims of wrongful convictions. Race set about attempting to locate Shanise Knight and

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murder as well.

on July 24, 2002, some seven weeks after the verdict, was able to interview her and obtain a statement from her. This initial sworn statement was then supplemented by a second sworn affidavit, executed on August 22, 2002. The substantive upshot of these two affidavits (annexed jointly hereto as ***Exhibit 11***) is as follows:

a. Knight was in her house, located at 153-18 112th Avenue, in her bedroom when she heard a gunshot. She then left her bedroom and went to her living room window.

b. She observed Leroy Vann talking with a male black who had his back to her. This was a tall man, older than any of the young men she eventually saw in a photographic array.

c. Knight then saw two flashes of light and heard a noise. The man was holding his right arm near his body when the two shots were fired. The man then ran westbound on 112th Avenue towards a dark-colored Jeep which was parked the wrong way.

d. Henry Hanley was with his girlfriend Charmaine Ramdass in the downstairs apartment at the time of the shooting. Knight stamped her feet on the floor and Hanley came up from the basement apartment, and she told him about the shooting. Hanley told her he had been asleep downstairs with Charmaine. At no time was Hanley outside on the stoop, or anywhere else during the shooting.

e. Knight was interviewed on several occasions by detectives from the New York City police department. She told them what she had seen, and also told them that Hanley had been asleep downstairs at the time of the shooting.

f. In June, 2002, Knight was visited at her place of employment by two "detectives" and Claude Stuart; they wanted her to help them find Kamisha Grant. Neither Stuart nor the detectives asked her to come testify or spoke to her about what she knew. She told them how they could locate Kamisha Grant.[8]

Ms. Knight is prepared to testify at any proceeding at which her attendance is required.

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[8] Knight was shown a copy of the trial transcript wherein Stuart, after Kamisha Grant had testified, stated that he was not aware of Knight's whereabouts; she classified this statement as "completely false."

27. As a result ***only*** of his initial contact with Shanise Knight, Race was able to locate Charmaine Ramdass, the girlfriend of Henry Hanley, and the mother of his two-year old son. Ms. Ramdass also executed an affidavit (annexed hereto as ***Exhibit 12***), wherein she simply averred that on February 4, the night before the shooting, she stayed over at Henry's house, and that the two of them were in the basement watching televison, and went to bed around 11:30 pm.. She stated at the time Shanise Knight stamped her feet to summon Henry Hanley, he was asleep in bed with her; he then went upstairs and she went back to sleep. She further assented that she had never been contacted by any person, police detective or prosecutor, between February 5 and the day she was interviewed by Michael Race, regarding her knowledge of the events of that morning.[9] She too is willing to come forward and testify at any court proceeding.

28. After consulting with Race, and receiving his assessment of the veracity and reliability of these two witnesses, we jointly agreed that an interview with Henry Hanley was the next logical investigative step. Consequently, on August 21, 2002, Race met with Henry Hanley at the Westchester County Jail, and was secured a four-page sworn affidavit from Hanley (annexed hereto as ***Exhibit 13***). In significant essence, Hanley recanted his trial testimony, and averred that

> "[a]t no time did I ever witness this incident [sic] into the death of Leroy Vann. I was actually inside of my basement apartment at 153-18 112 Ave with my girlfriend Sharmaine Ramdass. I was only told about the homicide from my aunt, Shanice Knight right after the incident occurred.

Moreover, Hanley detailed how the detectives questioned him, and showed him a single photograph of Tyrone Johnson, and "suggested" that he was the person responsible for the

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[9] It would be a restatement of the obvious to emphasize that since no police report or investigative document connected to the shooting reflected the presence of, or even the existence of Henry Hanley, there was not the slightest hint of Ms Ramdass or her relationship to Hanley or to the case contained anywhere in the materials provided to the defense.

murder. Hanley denied telling the detectives himself that the shooter was Tyrone Johnson or that he identified Johnson in any way

29. As disturbing as any other aspect of Hanley's admitted perjury is his recitation of his encounters with Claude Stuart, which warrant a verbatim reference:

> During my trial preparation with ADA Stewart, we discussed all of the three statements and my grand jury testimony to correct all of the differences to have one straight "story" for the trial. On the day of my testimony at the trial, ADA Stewart informed me that either ***he or someone he had sent [sic] to speak with Shanice Knight about my involvement***. Ada Stewart then told me that ***he or they were informed by Shanice Knight that I was in the basement apartment with my girlfriend.*** I was told that the defense had a private investigator who is trying to find Shanice Knight. If they did locate her, it would destroy the entire prosecution's case. I was then told by ADA Stewart that in order to correct that situation, I would have to prove and make it look like Shanice Knight was lying. I would have to testify that she, Ms. Knight was in a back bedroom and the door was closed.

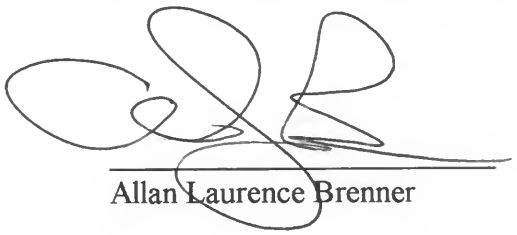
Hanley concluded his statement by reaffirming that he "did not witness this incident into the death of Leroy Vann," and that he

> want[s] the court to know and understand that what I have previously done was great error and hopefully realize that what I am doing now is because I cannot sleep and I have great pain to all of the families involved in this matter. I do ask for forgiveness from all involved.

30. This then represents the totality of the new evidence which the defendant seeks to introduce at a new trial: statements from three witnesses that Henry Hanley could not have seen, and did not see the events he described to the jury on May 29, 2002, and which inexorably resulted in my client's conviction. I am as convinced of Hanley's perjury as I am of Tyrone's innocence. I also have little doubt that the prosecution inadvertently disclosed the report containing Shanise Knight's initial statements, and then did its best to keep the defense from locating her in time to call her as a witness. While I understand the gravity of such accusations, they are nowhere as

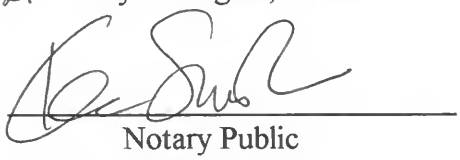
severe as the notion, substantiated by both Hanley and Knight, that the prosecutor withheld evidence which would have completely discredit the only direct witness in the case, in so doing, corrupted the truth-seeking process and convicted an innocent man.

WHEREFORE, based upon the foregoing, it is respectfully requested that this motion be granted in its entirety, and for such other and further relief as this court may deem necessary and proper in the premises.



Allan Laurence Brenner

Sworn to before me this
29th day of August, 2002



Notary Public
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